

Giving the Invocation for the Gilroy City Council

Thank you for agreeing to give the invocation at a Gilroy City Council meeting. Please compose your invocation to be as inclusive as possible to reflect the diversity of our community.

On September 9, 2002, the California Court of Appeals for the Second District issued an important opinion on invocations at meetings of public agencies. In the case of Rubin v. City of Burbank, 2002 DJDAR 10353, the court held that city council meetings may not begin with a sectarian prayer. In determining what constituted sectarian prayer, the court looked to the concluding sentence of the challenged invocation, which was this: "We are grateful Heavenly Father for all thou has poured out on us and we express our gratitude and our love in the name of Jesus Christ."

The judicial ruling in Rubin is binding on all public agencies in the State of California. Sectarian prayers are not permitted.

1. We ask that you not utilize terminology or refer to beliefs that are closely associated with a single religion. The reason for this is that one court has ruled that a prayer ending with "in the name of Jesus Christ" infers that the Council is advancing the religion of Christianity over other religions. This would violate the Establishment Clause of the First Amendment.
2. The invocation should not be given in the name of, or addressed to, Jesus Christ, Allah, Jehovah, Buddha or any other deity linked to a single religion.
3. The invocation should not include any message that is specifically and solely connected with a particular religion. The prayer, should not proselytize or advance any one, or disparage any other, faith or belief.

GENERAL PROCEDURES:

- The regular business of the Council is scheduled to begin at 7:00 p.m., but the City Council may be delayed due to a closed session held prior to the regular meeting. I suggest that you schedule your time to allow for any possible delay on their part
- I suggest you sit in the front row or on the aisle close to the front of Chambers to make for easier access to the podium.
- The Mayor will announce the flag salute and instruct the audience to remain standing for the invocation.
- After the pledge, you may proceed to the podium.
- When the invocation is over, you are more than welcome to stay for any of or for the entire meeting. If your schedule precludes staying, please feel free to leave at any time.
- I would appreciate a call at your earliest convenience (408-846-0204) if for any reason you are unable to attend as scheduled.

Thank you for sharing with the citizens of Gilroy.

Rhonda Pellin, CMC
City Clerk

MINISTERIAL ASSOCIATION OF GILROY
CITY COUNCIL INVOCATION LIST- 2005

Monday, January 3 rd	Cancelled	
Tuesday, January 18 th	Father Dan Derry	St. Mary's Catholic Church
Monday, February 7 th	Pastor Greg Quirke	South Valley Comm. Church
Tuesday, February 22 nd	Pastor Gerald Harris	Bethany Church of God
Monday, March 7 th	Pastor Dennis Nichols	South Valley Comm. Church
Monday, March 21 st	Pastor Mark Milwee	First Baptist Church
Monday, April 4 th	Pastor Bruce Rowlison	Gilroy Presbyterian Church
Monday, April 18 th	Pastor Mike Zukowski	South Valley Comm. Church
Monday, May 2 nd	Father Dan Derry	St. Mary's Catholic Church
Monday, May 16 th	Pastor Greg Quirke	South Valley Comm. Church
Monday, June 6 th	Pastor Gerald Harris	Bethany Church of God
Monday, June 20 th	Pastor Dennis Nichols	South Valley Comm. Church
Monday, July 11 th	Pastor Mark Milwee	First Baptist Church
Monday, July 18 th	Pastor Bruce Rowlison	Gilroy Presbyterian Church
Monday, August 1 st	Pastor Mike Zukowski	South Valley Comm. Church
Monday, August 15 th	Cancelled - City Council on vacation	
Monday, September 12 th	Father Dan Derry	St. Mary's Catholic Church
Monday, September 19 th	Pastor Greg Quirke	South Valley Comm. Church
Monday, October 3 rd	Pastor Gerald Harris	Bethany Church of God
Monday, October 17 th	Pastor Dennis Nichols	South Valley Comm. Church
Monday, November 7 th	Pastor Mark Milwee	First Baptist Church
Monday, November 21 st	Pastor Bruce Rowlison	Gilroy Presbyterian Church
Monday, December 5 th	Pastor Mike Zukowski	South Valley Comm. Church
Monday, December 19 th	Pastor Malcolm MacPhail	New Hope Comm. Church

December 21, 2004

Father Dan Derry
Saint Mary's Catholic Church
11 First Street
Gilroy, CA 95020

Dear Father Dan:

Enclosed is the Invocation schedule for the 2005 City of Gilroy City Council Meetings. The Council meets the 1st and 3rd Monday of every month. If a meeting falls on a holiday, then the meeting is moved to the next day. Starting in July if the meeting falls on a holiday, the meeting will be moved to the next Monday. The last meeting in August, the Council is on vacation and no meeting is scheduled.

If you have any questions or if there is a conflict with the dates, please do not hesitate to call me at 846-0356.

Thank you for taking time out of your busy schedule to do the invocation.

Sincerely,

Susan Johnson
Administration Office Assistance II

Enclosure

c: Rhonda Pellin, City Clerk

MEMORANDUM

Department of the City Attorney



To: Chair and Members of the Community Advisory Commission

From: Steven T. Mattas, City Attorney

Subject: Invocation at City Council Meetings

Date: January 25, 2005

The purpose of this memorandum is to advise the Community Advisory Commission of the legality of invocations as part of public meetings such as the City Council meeting. We are providing this information to the Commission at the request of the City Council. As set forth below, certain forms of invocation are permissible under federal and state law.

The U.S. Supreme Court has held that a legislative body may allow for a short, non-denominational invocation prior to a session of a legislative body. Marsh v. Chambers, 463 U.S. 783. In *Marsh*, the Supreme Court held that the Nebraska legislature's policy of opening sessions with a short, non-denominational invocation delivered by the chaplain did not violate the Constitution. In their *Marsh* decision, the Supreme Court expressly made a very narrow exception for legislative prayer, arguing that it was acceptable because an invocation before a session is a historic tradition which was respected and utilized during the sessions creating the Establishment Clause itself. A City Council meeting is considered a deliberative body. Therefore, a short, non-denominational invocation may be given prior to the start of the City Council meeting. In order to meet the standard set in *Marsh*, the invocation should remain short and non-denominational. The prayer must not be a "proselytizing activity" or "symbolically place the government's official seal of approval on one religious view." (*Marsh*, 463 U.S. at 792.) The invocation should be "harmonized with the tenets of some or all religions." (*Id.*) In the analysis of the facts of the case, the Supreme Court noted favorably that Nebraska chaplain removed all references to "Christ" from the invocations. The Court noted that there was no indication that the prayer was used to "proselytize or advance any one, or to disparage any other, faith or belief." (*Id.*)

In the recent case of Rubin v. City of Burbank, (2002) 101 Cal. App. 4th 1194, the California Court of Appeal interpreted *Marsh* to mean that any legislative prayer that proselytizes or advances one religious belief or faith, or disparages any other, violates the Establishment Clause of the U.S. Constitution. In particular, the opinion noted that specific reference to "Jesus Christ" in an invocation would violate the Establishment Clause, and was therefore impermissible. The Court of Appeal ordered the City of Burbank to not permit such sectarian prayer and required the City to advise those who participate in conducting prayer at city council meetings of this limitation.

An opening invocation or legislative prayer is therefore permissible at meetings such as the City Council meeting so long as it satisfies the constitutional requirement that it not be used to advance one faith or belief over another. Persons invited to give an invocation should be clearly informed that the invocation should be short, non-denominational, and should not be used to proselytize or to advance or disparage any particular religious viewpoint.

Please let us know if you have any questions.